

HOUSE**AMENDMENT NO. ____****Offered by****of**

1 AMEND House Committee Substitute for Senate Bill No. 636, Page
 2 18, Section 452.402, Line 33, by inserting after all of said line
 3 the following:

4 "452.413. 1. As used in this section, the following terms
 5 shall mean:

6 (1) "Deploying parent", a parent of a child less than
 7 eighteen years of age whose parental rights have not been
 8 terminated by a court of competent jurisdiction or a guardian of
 9 a child less than eighteen years of age who is deployed or who
 10 has received written orders to deploy with the United States
 11 Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard,
 12 or any other reserve component thereof;

13 (2) "Deployment", military service in compliance with
 14 military orders received by a member of the United States Army,
 15 Navy, Air Force, Marine Corps, Coast Guard, National Guard, or
 16 any other reserve component thereof to report for combat
 17 operations, contingency operations, peacekeeping operations,
 18 temporary duty (TDY), a remote tour of duty, or other service for
 19 which the deploying parent is required to report unaccompanied by
 20 any family member. Military service includes a period during
 21 which a military parent remains subject to deployment orders and
 22 remains deployed on account of sickness, wounds, leave, or other
 23 lawful cause;

24 (3) "Military parent", the legal parent of a child less
 25 than eighteen years of age whose parental rights have not been
 26 terminated by a court of competent jurisdiction, and who is a
 27 service member of the United States Army, Navy, Air Force, Marine
 28 Corps, Coast Guard, National Guard, or any other reserve
 29 component thereof;

Action Taken _____ Date _____

1 (4) "Nondeploying parent", a parent or guardian not subject
2 to military deployment.

3 2. If a military parent is required to be separated from a
4 child due to deployment, a court shall not enter a final order
5 modifying the terms establishing custody or visitation contained
6 in an existing order until ninety days after the deployment ends.

7 3. In accordance with section 452.412, deployment or the
8 potential for future deployment shall not be the sole factor
9 supporting a change in circumstances or grounds sufficient to
10 support a permanent modification of the custody or visitation
11 terms established in an existing order.

12 4. (1) An existing order establishing the terms of custody
13 or visitation in place at the time a military parent is deployed
14 may be temporarily modified to make reasonable accommodation for
15 the parties due to the deployment.

16 (2) A temporary modification order issued under this
17 section shall provide that the deploying parent shall have
18 custody of the child or reasonable visitation, whichever is
19 applicable under the original order, during a period of leave
20 granted to the deploying parent.

21 (3) Any court order modifying a previously ordered custody
22 or visitation due to deployment shall specify that the deployment
23 is the basis for the order and shall be entered by the court as a
24 temporary order.

25 (4) Any such custody or visitation order shall further
26 require the nondeploying parent to provide the court and the
27 deploying parent with a thirty day advance written notice of any
28 change of address and any change of telephone number. However,
29 if a valid domestic violence court order from this or another
30 jurisdiction is in effect that requires that the address or
31 contact information of the parent who is not deployed be kept
32 confidential, the notification shall be made to the court only,
33 and a copy of the order shall be included in the notification.

34 (5) Upon motion of a deploying parent, upon reasonable
35 advance notice and for good cause shown, the court shall hold an
36 expedited hearing in any custody or visitation matters instituted
37 under this section when the military duties of the deploying

parent have a material effect on his or her ability or anticipated ability to appear in person at a regularly scheduled hearing.

5. (1) A temporary modification of such an order automatically ends no later than thirty days after the return of the deploying parent and the original terms of the custody or visitation order in place at the time of deployment are automatically reinstated.

(2) Nothing in this section shall limit the power of the court to conduct an expedited or emergency hearing regarding custody or visitation upon return of the deploying parent, and the court shall do so within ten days of the filing of a motion alleging an immediate danger or irreparable harm to the child.

(3) The nondeploying parent shall bear the burden of showing that reentry of the custody or visitation order in effect before the deployment is no longer in the child's best interests. The court shall set any nonemergency motion by the nondeploying parent for hearing within thirty days of the filing of the motion and this shall take precedence on the court's docket.

6. (1) Upon motion of the deploying parent or upon motion of a family member of the deploying parent with his or her consent, the court may delegate his or her visitation rights, or a portion of such rights, to a family member with a close and substantial relationship to the minor child or children for the duration of the deployment if it is in the best interest of the child.

(2) Such delegated visitation time or access does not create an entitlement or standing to assert separate rights to parent time or access for any person other than a parent, and shall terminate by operation of law upon the end of the deployment, as set forth in this section.

(3) Such delegated visitation time shall not exceed the visitation time granted to the deploying parent under the existing order; except that, the court may take into consideration the travel time necessary to transport the child for such delegated visitation time.

(4) In addition, there is a rebuttable presumption that a

1 deployed parent's visitation rights shall not be delegated to a
2 family member who has a history of perpetrating domestic violence
3 against a spouse, child, or a domestic living partner, or to a
4 family member with an individual in the family member's household
5 who has a history of perpetrating domestic violence against a
6 spouse, child, or a domestic living partner.

7 (5) The person or persons to whom delegated visitation time
8 has been granted shall have full legal standing to enforce such
9 rights.

10 7. Upon motion of a deploying parent and upon reasonable
11 advance notice and for good cause shown, the court shall permit
12 such parent to present testimony and evidence by affidavit or
13 electronic means in support, custody, and visitation matters
14 instituted under this section when the military duties of such
15 parent have a material effect on his or her ability to appear in
16 person at a regularly scheduled hearing. Electronic means
17 includes communication by telephone, video conference, or the
18 internet.

19 8. Any order entered under this section shall require that
20 the nondeploying parent shall:

21 (1) Make the child or children reasonably available to the
22 deploying parent when the deploying parent has leave;

23 (2) Facilitate opportunities for telephonic and electronic
24 mail contact between the deploying parent and the child or
25 children during deployment; and

26 (3) Provide timely information regarding the deploying
27 parent's leave schedule to the nondeploying parent.

28 9. (1) If there is no existing order establishing the
29 terms of custody and visitation and it appears that deployment is
30 imminent, upon the filing of initial pleadings and motion by
31 either parent, the court shall expedite a temporary hearing to
32 establish temporary custody or visitation to ensure the deploying
33 parent has access to the child, to ensure disclosure of
34 information, to grant other rights and duties set forth in this
35 section, and to provide other appropriate relief.

36 (2) Any initial pleading filed to establish custody or
37 visitation for a child of a deploying parent shall be so

1 identified at the time of filing by stating in the text of the
2 pleading the specific facts related to deployment.

3 10. (1) Since military necessity may preclude court
4 adjudication before deployment, the parties shall cooperate with
5 each other in an effort to reach a mutually agreeable resolution
6 of custody, visitation, and child support. Each party shall
7 provide information to each other in an effort to facilitate
8 agreement on custody and visitation.

9 (2) A deploying parent shall provide a copy of his or her
10 orders to the nondeploying parent promptly and without delay
11 prior to deployment. Notification shall be made within ten days'
12 of receipt of deployment orders. If less than ten days notice is
13 received by the deploying parent, notice shall be given
14 immediately upon receipt of military orders. If all or part of
15 the orders are classified or restricted as to release, the
16 deploying parent shall provide, under the terms of this
17 subdivision, all such nonclassified or nonrestricted information
18 to the nondeploying parent.

19 11. In an action brought under this chapter, whenever the
20 court declines to grant or extend a stay of proceedings under the
21 Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521-
22 522, and decides to proceed in the absence of the deployed
23 parent, the court shall appoint at the request of the deployed
24 parent or on its own motion a guardian ad litem to represent the
25 minor child's interests.

26 12. Service of process on a nondeploying parent whose
27 whereabouts are unknown may be accomplished by certified mail,
28 return receipt requested, to the nondeploying parent's last known
29 address based on an affidavit of the deploying parent.

30 13. In determining whether a parent has failed to exercise
31 visitation rights, the court shall not count any time periods
32 during which the parent did not exercise visitation due to the
33 material effect of such parent's military duties on visitation
34 time.

35 14. Once an order for custody has been entered in Missouri,
36 any absence of a child from this state during deployment shall be
37 denominated a temporary absence for the purposes of application

1 of the Uniform Child Custody Jurisdiction and Enforcement Act
2 (UCCJEA). For the duration of the deployment, Missouri shall
3 retain exclusive jurisdiction under the UCCJEA and deployment
4 shall not be used as a basis to assert inconvenience of the forum
5 under the UCCJEA.

6 15. In making determinations under this section, the court
7 may award attorney's fees and costs based on the court's
8 consideration of:

9 (1) The failure of either party to reasonably accommodate
10 the other party in custody or visitation matters related to a
11 military parent's service;

12 (2) Unreasonable delay caused by either party in resolving
13 custody or visitation related to a military parent's service;

14 (3) Failure of either party to timely provide military
15 orders, income, earnings, or payment information, housing or
16 education information, or physical location of the child to the
17 other party; and

18 (4) Other factors as the court may consider appropriate and
19 as may be required by law."; and

20 Further amend said title, enacting clause and intersectional
21 references accordingly.